

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 10-0455 WHA

Plaintiff,

v.

**MEMORANDUM DESCRIBING
THE PROCEDURE FOR THE
TESTIMONY OF THE
COMPLAINING WITNESS**

MARCEL DARON KING,

Defendant.

For the benefit of our court of appeals, this memorandum describes the procedure used pursuant to 18 U.S.C. 3509 for the testimony of the complaining witness during the evidentiary hearing on September 13, 2016.

The district judge first questioned the complaining witness in chambers outside the presence of defendant regarding the reasons she was unable to testify in the presence of defendant. Counsel for defendant and the government were present at this time and were given an opportunity to question the complaining witness.


The complaining witness began her testimony in the courtroom in the normal way in the presence of defendant. The Court later permitted her to testify as to the alleged sexual intercourse itself with defendant removed elsewhere. Specifically, the Court directed defendant to proceed to another courtroom where three different video feeds enabled defendant to see and hear (1) the witness; (2) the judge; and (3) counsel. A video feed also transmitted the video (but not the audio) of defendant into the Courtroom such that all could see defendant on a large screen placed approximately 22 to 24 feet in front of the witness.

1 To enable defendant to communicate with his defense team during this portion of the
2 testimony, a telephone call was placed connecting the two courtrooms. Defendant joined one
3 end of the phone call and a member of the defense team joined the other end of the phone call
4 (both via headsets). The Court had previously directed that, if needed, defense counsel would
5 be permitted to recess for further communication with his client (*see* Dkt. No. 223).

6 The procedure was used twice for a total of about ten to fifteen percent of her overall
7 testimony.

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9 **IT IS SO ORDERED.**

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11 Dated: September 30, 2016.

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14 WILLIAM ALSUP
15 UNITED STATES DISTRICT JUDGE
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